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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
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11 ALFONSO CAMPOS, on behalf of
12 himself, others similarly situated,

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14 Plaintiff,

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16 vs.

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18 HERTZ EQUIPMENT RENTAL
19 CORPORATION; HERC RENTALS
20 INC.; THE HERTZ CORPORATION;
21 HERTZ GLOBAL HOLDINGS, INC.;
22 and DOES 1 to 100, Inclusive
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25 Defendants.
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Case No.: 3:17-cv-03170-CRB

Assigned to Hon. Charles R. Breyer

CLASS ACTION

**~~[PROPOSED]~~ ORDER GRANTING
PLAINTIFFS' MOTION TO
DISMISS CLASS ACTION
ALLEGATIONS**

[Filed concurrently with Plaintiffs' Notice of Motion and Motion to Dismiss Class Action Allegations; Memorandum of Points and Authorities; and Declaration of Vincent C. Granberry In Support]

Hearing Information:
Date: April 27, 2018
Time: 10:00 a.m.
Courtroom: 6

TO ALL PARTIES AND TO THEIR COUNSEL OF RECORD:

The Court has considered the Notice of Motion and Motion to Dismiss Class Action Allegations, Declarations, and all other documents submitted in support of or opposition to the motion

**~~[PROPOSED]~~ ORDER GRANTING PLAINTIFF'S MOTION TO DISMISS CLASS
ACTION ALLEGATIONS**

1 Federal Rule of Civil Procedure 23(e) states “[t]he claims, issues or defenses
2 of a certified class may be settled, voluntarily dismissed, or compromised only with
3 the court’s approval.” The Ninth Circuit has held that although the language of Rule
4 23(e) refers only to a “certified class”, the Rule also applies to pre-certification
5 dismissals and settlements. *Diaz v. Trust Territory of the Pac. Islands*, 876 F.2d
6 1401, 1408 (9th Cir. 1989) (overruled on other grounds by *Amchem Prods. Inc. v.*
7 *Windsor*, 521 U.S. 591). The *Diaz* court indicated that pre-certification approval was
8 necessary to ensure that a dismissal or compromise “is not collusive or prejudicial.”
9 *Id.* at 1408.

10 [T]he district court should inquire into possible prejudice from (1) class
11 members’ possible reliance on the filing of the action if they are likely
12 to know of it either because of publicity or other circumstances, (2) lack
13 of adequate time for class members to file other actions, because of a
14 rapidly approaching statute of limitations, (3) any settlement or
concessions of class interests made by the class representative or
counsel in order to further their own interests.

15 *Id.* “Notice to the class of pre-certification dismissal is not, however required in all
16 circumstances.” *Id.*

17 Here, Plaintiff’s voluntary dismissal is not collusive or prejudicial to the class
18 and there is no need to send notice of the dismissal to the class. Plaintiff seeks
19 dismissal based on the settlement of another other putative wage and hour class
20 actions involving substantially the same causes of action, for the same proposed
21 class, and against the same Defendants. No one has offered Plaintiff or Plaintiff’s
22 Counsel, Lavi & Ebrahimian LLP, any consideration, direct or indirect, for the
23 dismissal of the class allegations. Dismissal will avoid any detrimental ruling which
24 could prevent another class member from bringing a class action on behalf of
25 putative class members.

26 Further, there is no need to require notice to be sent to the putative class in this
27 action. Plaintiff and Plaintiff’s Counsel are unaware of this case receiving any press
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1 coverage or publicity which would have caused class members to rely on this class
2 action. Plaintiff has not received any class contact information from the Defendants
3 and no notice has been sent to the putative class which would have alerted them to
4 the existence of this lawsuit. Accordingly, it is very unlikely that any of the putative
5 class members have refrained from filing their own lawsuit because of any reliance
6 on this action.

7 The putative class members are not likely to suffer any prejudice to lack of
8 adequate time to file their own actions once the class claims in this case are
9 dismissed. The dismissal is precertification and will be without prejudice.
10 Accordingly, the dismissal will not create a procedural bar to any class member filing
11 a claim or putative class action. Any putative class member will have the benefit of a
12 four-year statute of limitations on their wage claims. CAL. BUS. & PROF. CODE
13 §17208. Moreover, a filing of an alleged class action tolls the statute of limitations
14 for all individual claims covered by the class action during the pendency of the suit.
15 *Am. Pipe & Constr. Co. v. Utah*, 414 U.S. 538, 554 (1975). After dismissal, the class
16 members will be in the same position as when the suit was initially filed.

17 Accordingly, the Court GRANTS the motion and DISMISSES WITHOUT
18 PREJUDICE the class claims in this action.

19 **IT IS SO ORDERED.**

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21 Dated: April 25, 2018


22 Hon. Charles R. Breyer
23 United States District Court Judge
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